



## Public Utility Commission of Texas

7800 Shoal Creek Boulevard  
Austin, Texas 78757 • 512/458-0100

Jo Campbell  
Commissioner

Marta Greytok  
Commissioner

Paul D. Meek  
Chairman

ID#12891  
mJ

July 2, 1991

RQ 118

RECEIVED

JUL 05 91

Opinion Committee

The Honorable Dan Morales  
Attorney General of Texas  
Supreme Court Building  
Austin, Texas 78711

Dear General Morales:

This is to request an Attorney General's Opinion.

A Public Utility Commission (PUC) employee recently resigned to become an employee of an affiliate of a PUC regulated telephone company. One of his last PUC assignments was as project manager for a management audit on the regulated company. The audit was completed in February 1991. The employee resigned from the PUC in May 1991 and began employment for the affiliate soon after. Employment negotiations between the employee and the president of the regulated company (who was also president of the affiliated company) apparently began while the audit was in progress.

§ 6(d), (e) and (i) of Article 1446c, the Public Utility Regulatory Act (PURA), appear pertinent. They provide in part:

Sec. 6 . . . Prohibited Activities. . . .

(d) No . . . employee of the commission may directly or indirectly solicit or request from or suggest or recommend to any public utility, or to any agent, representative, attorney, employee, officer, owner, director, or partner thereof . . . the employment in any capacity of any person by such public utility or affiliated interest.

(e) No public utility or affiliated interest . . . nor any agent, representative, attorney, employee, [or] officer . . . of any public utility or affiliated interest, . . . may give, or offer to

The Honorable Dan Morales  
July 2, 1991  
Page 2

give, any . . . employment . . . whatsoever to any  
. . . employee of the commission . . .

. . . (i) No . . . [PUC] employee shall, within  
one year after his employment with the commission  
has ceased, be employed by a public utility which  
was in the scope of the commissioner's or  
employee's official responsibility while the  
commissioner or employee was associated with the  
commission.

My questions are as follows:

(1) Texas Attorney General Opinion JM-280 (1984) holds § 6(i) of Article 1446c has no application to employment by companies affiliated with a regulated utility and wouldn't be violated by such an affiliated company employing a PUC commissioner immediately upon the commissioner leaving the PUC. Is it correct to interpret JM-280 to mean that § 6(i) wasn't violated under the stated facts?

(2) If the former PUC employee could legally be employed by the affiliated company immediately upon resigning from the PUC -- was it legal under § 6(d) and (e) for the employee and the company officer to negotiate such an arrangement while the officer was president of both the company under audit and the affiliated company and the employee was the PUC staff member in charge of the audit?

(3) Were any other applicable laws violated under the facts stated?

(4) If these facts had occurred after January 1, 1992, the effective date of Senate Bill 1, Acts of the 72nd Legislature, Regular Session, 1991, would your answer be different?

(5) To what extent, if any, will the ethics law established in PURA continue to apply to PUC commissioners and staff after the effective date of Senate Bill 1?

The Honorable Dan Morales

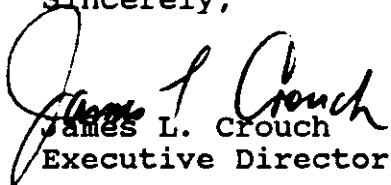
July 2, 1991

Page 3

(6) Conversely, to what extent, if any, will the new ethics law established in Senate Bill 1 apply to PUC commissioners and staff after its effective date?

Please let me have your answers to these questions as soon as possible.

Sincerely,

  
James L. Crouch  
Executive Director